

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

In re:	}	
Alliance Home Healthcare, Inc.	}	Case No. 15-05642
	}	
Debtor.	}	Chapter 11
_____	}	
Alliance Home Healthcare, Inc.	}	
Plaintiff,	}	Judge Donald R. Cassling
	}	
v.	}	
United States of America,	}	Adversary No.:
Department of Treasury,	}	
Internal Revenue Service,	}	
	}	
Defendant.	}	

**COMPLAINT TO ENFORCE THE AUTOMATIC STAY, AND REQUIRING THE  
INTERNAL REVENUE SERVICE TO RELEASE LEVY, AND RETURN FUNDS TO  
THE DEBTOR**

NOW COMES Alliance Home Healthcare, Inc., the Debtor and Debtor in Possession herein, (hereinafter "Debtor") by and through it's attorneys Costello & Costello, P.C. and moves this court to enter an order Enforcing the Automatic Stay, and Requiring the Internal Revenue Service to Release Levy, and Return Funds to the Debtor and in support thereof states as follows:

1. The Debtor, commenced the underlying chapter 11 case on February 19, 2015 by filing a voluntary petition for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code.
2. That among the creditors of the Debtor is The United States of America, Department of Treasury, Internal Revenue Service (hereinafter "IRS").
3. That the IRS has a claim against the estate of approximately \$1,371,716.28 which claim arises from non-payment of payroll taxes plus penalties and interest.
4. Prior to the filing of the petition, the IRS issued notices of levy to Standard Bank and

Trust Company (hereinafter “Standard Bank”) and also to many of the customers and payors of customers of the Debtor including Medicare, Medicaid and several insurers (hereinafter collectively referred to as “Payors”).

5. That Standard Bank has a claim against the estate of approximately \$14,600,000 which claim is secured by nearly all of the assets of the estate including cash collateral within the meaning of 11 U.S.C. Section 363..

6. The Internal Revenue Service (hereinafter “IRS”) has issued and filed general liens on the property of the Debtor although the liens of Standard Bank are prior and superior to the liens of the IRS and there is no “equity” beyond the liens of Standard Bank and so the IRS is actually an unsecured claimant at least as to all non-cash collateral assets.

7. That Payors are currently holding funds of the Debtor and will not turn over such funds to the Debtor without a release of levy from the IRS.

8. That the Debtor requires use of such funds to fund operations of its business and continue to service its customers and generate new receivable.

9. That if Payors continue to hold such funds, immediate irreparable harm to the estate will result and the Debtor will be unable to successfully reorganize and ultimately pay creditors of the debtor.

10. As of the date of this motion, to the knowledge of the Debtor, neither any Payor nor Standard Bank have released any funds to the IRS.

11. The Debtor continues to have an interest in the funds being held by Standard Bank and the Payors and such funds are property of the estate under 11 U.S.C. Section 541.

12. In the event Standard Bank or any Payor turns over funds to the IRS, the Debtor requests that such funds be turned over by the IRS to the Debtor.

13. That although the IRS does not have actual possession of any asset of the estate, its continued refusal to release the pre-petition levy is tantamount to exercising control over assets of the estate in violation of the automatic stay provisions of 11 U.S.C. Section 362 including 362(a)(3), (4), (5) and (6).

WHEREFORE the Debtor prays:

A. That a Judgment order be entered Enforcing the Automatic Stay, and Requiring the Internal Revenue Service to Release Levy, and Return Funds to the Debtor , and;

B. That the court award damages to the Debtor including punitive sanctions as deemed appropriate; and

C. For such other and further relief as is deemed just and equitable in the circumstances.

Respectfully submitted,  
Alliance Home Healthcare, Inc.

By /s/Stephen J. Costello  
Stephen J. Costello, attorney for the Debtor

STEPHEN J. COSTELLO  
ARDC# 6187315  
COSTELLO & COSTELLO, P.C.  
19 N. WESTERN AVE.(RT. 31)  
CARPENTERSVILLE, IL. 60110  
phone (847) 428 - 4544  
fax (847) 428-4694  
e-mail [steve@costellolaw.com](mailto:steve@costellolaw.com)